

OGC HAS REVIEWED.

21 November 1956

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MEMORANDUM FOR: [REDACTED]

SUBJECT : Review of Draft Proclamation Entitled
"Control of Persons Departing or Entering
the United States"

1. The Agency has been requested by the Bureau of the Budget to review a proclamation bearing the above title which has been prepared by the Office of Defense Mobilization and which would be issued in the event of a national emergency declared by the President. This memorandum analyzes the text of the draft proclamation to determine whether or not it would interfere with the war time mission and functions of this Agency.
2. The proclamation establishes terms and procedures whereby citizens of the United States and aliens may enter and leave this country and all other territory and waters subject to the jurisdiction of the United States. In the proclamation the President delegates the authority vested in him by Section 215 of the Immigration and Nationality Act, enacted on June 27, 1952 (Public Law 414 82nd Congress, 66 Stat. 163, 190; 8 U.S.C. 1185) to the Secretary of State and to the Attorney General. With respect to citizens and persons who owe allegiance to the United States, the Secretary of State is authorized to control their entry and departure. With respect to aliens departing from the United States and other territory and waters subject to the jurisdiction of the United States the Secretary of State is authorized to issue a departure permit and to allow actual departure; in this instance the Attorney General may temporarily prevent this departure but the Secretary of State can, in effect, overrule him by deciding that this departure would not be prejudicial to the national interests. With respect to aliens attempting to enter the United States and all territory and waters subject to its jurisdiction, the Secretary of State is designated to issue an entry permit in accordance with the regulations which he may promulgate, and this official has final authority to determine whether the issuance of a permit to enter would be prejudicial to the interests of the United States. However, in this last situation,

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actual entry into the United States shall not be permitted "if it appears to the satisfaction of the Attorney General that the entry of such alien would be prejudicial to the interests of the United States."

3. In addition to the foregoing procedures in the three situations listed in the foregoing paragraph, the draft proclamation contains the following general provisions. Persons departing from or entering the United States must submit to inspection, if required, of documents, articles, or other things which are being removed from or brought into the United States. Both the Secretary of State and the Attorney General are authorized to prescribe rules and regulations to carry out these overall procedures. Compliance with the provisions under this proclamation and any rules or regulations issued under Section 215 of the Immigration and Nationality Act "shall not be considered as exempting any person from the duty of complying with the provisions of any statute, proclamation, rule, regulation or order heretofore issued and still in effect." Other departments and agencies of the Government are directed by the draft proclamation to cooperate with the Secretary of State and the Attorney General. Proclamation 3004 of January 17, 1953, 3 C.F.R. 1953 Supp., is superseded by this new draft proclamation.

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6. With respect to those cases in which the Secretary of State has the power of decision, the draft proclamation contains language which authorizes exemptions and modifications that may be granted by the Secretary of State. As a practical matter this language appears adequate to permit the working out of any necessary administrative arrangements between the Department of State and this Agency to cover cases in which CIA has a special interest. The provision for inspection of documents, articles, or other things being brought into or removed from the United States also permits the exercise of administrative discretion by virtue of the words "if so required."

7. Proclamation 3004 which is superseded by this draft proclamation covered the departure and entry of citizens and nationals and the departure of aliens with approximately the same scope as the proposed proclamation, but it did not cover in comparable scope the entry of aliens. The Secretary of State and the Attorney General were the officials designated to implement proclamation 3004, with the significant difference that the Attorney General's concurrence was required in alien departure cases. Insofar as this Agency is concerned, it does not appear that the draft proclamation poses either legal or administrative problems beyond those existing in connection with proclamation 3004.

8. The foregoing analysis leads to the following conclusions:

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(b) The draft proclamation provides for administrative discretion on the part of responsible officials of other departments which appears to provide an adequate basis for the accomplishment of Agency activities.

(c) In view of the disruption of normal governmental activities to be anticipated upon the outbreak of hostilities, as a practical matter it may be desirable at the present time to exchange memorandums of understanding with the Secretary of State and the Attorney General so that the Vital Material files of the respective Agencies will contain a clear record of the administrative implementation of this proclamation insofar as CIA is concerned. While this might appear to be an excess of caution, the confusion necessarily surrounding the reactivation of governmental activities at relocation centers indicates the desirability of eliminating in advance any possible doubts relative to operational procedures.

9. The conclusions reached by the foregoing analysis from a legal point of view of this draft proclamation are reinforced by the

report received from the Acting Director of Security. His memorandum dated 18 September 1956 on this subject advises that this proclamation has been reviewed and the Alien Affairs Staff has concluded that it does not appear to affect adversely the entry or departure of aliens of interest to the Agency. This memorandum indicates that continued cooperation with the Secretary of State and the Attorney General is anticipated.

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